

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2016

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.31533 of 2016

V.Balakrishnan

... Petitioner

Vs.

The State of Tamilnadu Rep. by
The Secretary to Government,
Public Works Department,
Fort St.George,
Chennai – 600 009.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent herein to revoke the order of suspension dated 24.07.2007 and thereby permitting the petitioner to retire from service on his attaining the age of superannuation on 30.06.2015 with all consequential monetary and service benefits within in a time frame fixed by this Hon'ble Court.

For Petitioner : Mr.A.R.Suresh
For Respondents : Mr.S.Gunasekaran
Additional Government Pleader

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The present writ petition has been filed seeking a Mandamus directing the respondent herein to revoke the order of suspension dated 24.07.2007 and thereby permitting the petitioner to retire from service on his attaining the age of superannuation on 30.06.2015 with all consequential monetary and service benefits within in a time frame fixed by this Court.

3.In the affidavit filed in support of this petition, it has been stated that the petitioner is a Diploma Holder in Engineering and he entered the service as a Technical Assistant through Employment Exchange in the year 1985 and appointed as such in the Public Works Department, Irrigation Wing on 04.01.1985 and the petitioner successfully completed his probation and was promoted as Junior Engineer on 24.11.1999.

4.It is further stated that a charge memo dated 24.07.2008, under Rule 17(b) of the TNCS (D&A) Rules was issued alleging five charges and on the same day, the petitioner and three others were placed under suspension vide Government Order in G.O.(D) No.393 Public Works (E1) Department, dated 24.07.2007 and the petitioner immediately submitted his explanation denying all the charges. The

respondent vide G.O.(D) No.571 Public Works (E1) Department, dated 21.11.2008 appointed Commissioner of Disciplinary Proceedings, Chennai as the Inquiry Officer to inquire into the charges framed against the petitioner and similarly placed persons.

5.It is further stated that the respondent after about six long years has issued another Government Order in G.O.(D) No.150 Public Works (E1) Department, dated 14.03.2013, once again, appointing the Commissioner of Disciplinary Proceedings, Chennai as the Inquiry Officer to inquire into the charges levelled against the petitioner and similarly placed persons. The case was taken on file by the Tribunal for Disciplinary Proceedings as case no.48/2008. Enquiry proceedings were held between 07.08.2013 to 03.10.2013 and the Commissioner vide final report dated 28.03.2014, has recommended for exonerating the petitioner and three other officers from the charges and found guilty of three officers. In the enquiry report, the Commissioner for Disciplinary Proceedings has categorically held that there is no mention about anything adverse against the petitioner.

6.It is further stated that the Government also accepted the findings of the Commissioner for Disciplinary Proceedings and the

petitioner approached this Court by filing W.P.No.29282 of 2014 for revocation of the suspension order and for reinstatement in service and this Court vide order dated 11.11.2014, disposed of the same by directing the respondent to pass final orders, in pursuant to the enquiry report dated 28.03.2014 within a stipulated time, but no orders were passed. Thereafter, the petitioner also reached the age of superannuation and he was not permitted to retire from service. Hence, the petitioner after several rounds of litigations made a detailed representation dated 11.05.2016 to the respondent and though the representation has been received by the respondent as early as on 13.05.2016, no orders have been passed revoking his suspension and he is also not permitted to retire from service. Hence, this petition.

7.Heard the submissions of the learned counsel appearing for the petitioner and the learned Additional Government Pleader who takes notice for the respondent.

8.Considering the submissions made on either side, this Court directs the petitioner to give a fresh detailed representation, along with a copy of this order to the respondent, within a period of two weeks from the date of receipt of a copy of this order and the respondent on receipt of the same, is directed to consider the said representation and

pass appropriate orders, on merits and in accordance with law, within a further period of four weeks thereafter.

9.It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner and it is for the respondent to decide the matter, purely on merits.

10.The writ petition is disposed of accordingly. No costs.

09.09.2016

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Index: Yes / No
Internet: Yes / No

To

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R.SUBBIAH,J.

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